IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 157 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 158 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 159 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 160 OF 2005

Mrs. Poonam Sanjay Agarwal ...Applicant

Versus

M/s. Agarwal Corporation & Anr ...Respondents

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Mr. M.S. Mohite, Advocate for Applicant.

Mr. Y.S. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 28TH JUNE, 2005

P. C.:-

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant has prayed for quashing of process issued against her in Criminal Case Nos. 1524/S/2003 (CC No.247/S/2002), 1523/S/2003 (CC No. 246/S/2002), 1522/S/2003 (CC No. 245/S/2002) and 1521/S/2003 (CC. No. 244/S/2002) which are pending in the Court of learned Additional Chief Metropolitan Magistrate, 40th Court, Girgaon, Mumbai. In the said case,

process has been issued against the applicant under Section 138 r.w. 141 of Negotiable Instruments Act.

3. It may be stated here that the applicant had earlier preferred an application before the learned Magistrate for recalling of process. The said application came to be rejected. Being aggrieved by the order of the learned Magistrate, the applicant preferred revision before the Sessions Court. The Sessions Court observed that in view of the judgment of the Apex Court in the case of **Adalat Prasad Vs. Rooplal Jindal & Ors. 2004 (4) Mh.L.J. 274** and **Subramanium Sethuraman Vs. State of Maharashtra & Anr. 2005 (1) Mh.L.J. 626,** the order of the Magistrate does not suffer from any irregularity and on this ground the revision came to be dismissed. In view of these two decisions, no fault can be found with the order of the learned Sessions Judge rejecting the revision preferred against the order of the Magistrate rejecting the application for recall of process.

3. However, For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing

process. Hence, in my view, it would be appropriate that the applicant prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer revision before the concerned Sessions Court. It is made clear that the revision shall be preferred in respect of the order of the Magistrate issuing process against the applicant and not in respect of order of the Magistrate rejecting the application of the applicant for recalling of process. The trial Court shall not proceed with the trial for a period of three weeks from today.

5. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Office to issue an authenticated copy of this order to the parties.

7. Criminal Applications are disposed of.

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